

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 433 WO	FOR FURTHER ACTION		See Form PCT/IPEA/416
International application No. PCT/DK2004/000243	International filing date (day/month/year) 02.04.2004	Priority date (day/month/year) 04.04.2003	
International Patent Classification (IPC) or national classification and IPC C07D211/70, C07D405/12, A61K31/4409, A61P25/00			
Applicant H. LUNDBECK A/S et al.			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

3. This report is also accompanied by ANNEXES, comprising:

- sent to the applicant and to the International Bureau a total of sheets, as follows:
 - sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
- (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

Date of submission of the demand 24.09.2004	Date of completion of this report 08.07.2005
Name and mailing address of the international preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Diederer, J Telephone No. +31 70 340- 1097



INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.
PCT/DK2004/000243

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language , which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
 2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-46 as originally filed

Claims, Numbers

1-17 as originally filed

- a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:

 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
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Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

1. The questions whether the claimed invention appears to be novel, to involve an inventive step (to be non-obvious), or to be industrially applicable have not been examined in respect of:
 - the entire international application,
 - claims Nos. 16
 - because:
 - the said international application, or the said claims Nos. 16 relate to the following subject matter which does not require an international preliminary examination (specify):
see separate sheet
 - the description, claims or drawings (*indicate particular elements below*) or said claims Nos. are so unclear that no meaningful opinion could be formed (*specify*):
 - the claims, or said claims Nos. are so inadequately supported by the description that no meaningful opinion could be formed.
 - no international search report has been established for the said claims Nos.
 - the nucleotide and/or amino acid sequence listing does not comply with the standard provided for in Annex C of the Administrative Instructions in that:
 - the written form has not been furnished
 does not comply with the standard
 - the computer readable form has not been furnished
 does not comply with the standard
 - the tables related to the nucleotide and/or amino acid sequence listing, if in computer readable form only, do not comply with the technical requirements provided for in Annex C-*bis* of the Administrative Instructions.
 - See separate sheet for further details

**INTERNATIONAL PRELIMINARY REPORT
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Box No. V Reasoned statement under Article 35(2) with regard to novelty; inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes:	Claims	1-17
	No:	Claims	
Inventive step (IS)	Yes:	Claims	1-17
	No:	Claims	
Industrial applicability (IA)	Yes:	Claims	1-15,17
	No:	Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VI Certain documents cited

1. Certain published documents (Rule 70.10)

and / or

2. Non-written disclosures (Rule 70.9)

see separate sheet

**INTERNATIONAL PRELIMINARY
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International application No.
PCT/DK2004/000243

Reference is made to the following document:

D1: WO 01/49678 A (KROG JENSEN CHRISTIAN ; ROTTLAENDER MARIO (DK); ANDERSEN KIM (DK); MIK) 12 July 2001 (2001-07-12)

Re Item III

Non-establishment of opinion with regard to novelty, inventive step and industrial applicability

Claim 16 relates to subject-matter considered by this Authority to be covered by the provisions of Rule 67.1(iv) PCT. Consequently, no opinion will be formulated with respect to the industrial applicability of the subject-matter of these claims (Article 34(4)(a)(I) PCT).

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

The application fulfills the requirements of Article 33(2) and 33(3) PCT with respect to Novelty and Inventive Step.

The subject-matter of the present application is novel over D1 as the compounds of D1 are substituted at the nitrogen atom of the nitrogen containing heterocycle, whereas the compounds of the present application are unsubstituted at this position.

Document D1 is considered to be the closest prior art. This document discloses compounds of formula (I) which are used as 5-HT1A receptor agonists.

The difference of these compounds with the compounds of the present application is that the nitrogen atom of the nitrogen containing ring is substituted in D1 whereas in the present application it is not. In D1 the nitrogen containing heterocycle can be either piperazines, piperidines or dihydropyridines in the first claim. There is no subclaim where only the dihydropyridine is claimed. The examples all comprise piperazines.

**INTERNATIONAL PRELIMINARY
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The problem to be solved by the applicant was to provide alternative compounds for use as SSRI's. A skilled person would not come to the solution proposed in the present application starting from D1 as he would have to leave out the substituent on the nitrogen atom and to choose from a list of three possible nitrogen containing heterocycles of which the dihydropyridine is actually not at all exemplified in D1.

The subject-matter of the present application is therefore considered to involve an inventive step over D1.